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Paper No. 7

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APR 25 2002

OFFICE OF PETITIONS

In re Application of Ponn, et al. :
Application No. 09/683,233 : DECISION REFUSING STATUS
Filed: December 4, 2001 : UNDER 37 CFR 1.47(a)
Atty. Dkt No. 47874.267151 :
For: VEHICLE LOCK DEVICE :

This is in response to the petition under 37 CFR 1.47(b), filed February 15, 2002. As the declaration accompanying the instant petition is executed by at least one of the named inventors, this petition is being treated under 37 CFR 1.47(a).

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed December 4, 2001 without an executed oath or declaration and naming Helmuth Ponn as sole inventor. Accordingly, on December 19, 2001, a Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed, requiring an executed oath or declaration, a surcharge for its late filing, and the statutory basic filing fee. The instant petition along with accompanying declaration naming Helmuth Ponn and Stig Hermansson as joint inventors were filed in response.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

Petitioner lacks item (1) set forth above. Petitioner has failed to provide sufficient evidence to establish that the non-signing inventor cannot be reached, was ever presented with a copy of the application papers (specification, claims and drawings), or, having been presented with the application

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papers, refused to sign the oath or declaration.

While the declaration of Christina Brenne states that the application papers were mailed to the non-signing inventor throughout 2001, petitioner has not included any supporting evidence to sufficiently establish that the inventor ever in fact received the application papers and thereafter refused to execute the declaration.

Petitioner is reminded that "before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney." See, MPEP 409.03(d).

Any renewed petition should be accompanied by evidence to establish that the non-signing inventor was sent a copy of the application papers (specification, claims, and drawings) and thereafter refused to execute the declaration. Petitioner should include copies of letters sent to the inventor indicating the enclosure of the application papers (specification, claims, and drawings). If after the inventor received the application papers and requests to execute the declaration were refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.


Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn.: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
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Telephone inquiries regarding this decision should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.


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